

ORDINANCE NO. 16- 39

AN ORDINANCE AMENDING CHAPTER 2, ARTICLE III, DIVISION 3 OF THE ROGERS CITY CODE; COMBINING THE POSITIONS OF CITY CLERK AND CITY TREASURER; CLARIFYING THE DUTIES OF THE POSITION OF CLERK-TREASURER; AND FOR OTHER PURPOSES.

WHEREAS, pursuant to A.C.A. §14-43-405, the City Council has determined that it would be in the best interest of the City of Rogers to amend the Rogers City Code to combine the positions of City Clerk and Treasurer into the position of Clerk-Treasurer; and

WHEREAS, the language in the Rogers City Code providing for the duties of City Clerk-Treasurer needs to be clarified to express the intent of the City Council; and

WHEREAS, it is beneficial to the citizens of the City of Rogers that the Rogers City Code is consistent, clear, unambiguous, and accurately reflects state and local laws.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ROGERS, ARKANSAS:

Section 1: That effective January 1, 2017, and in accordance with A.C.A. §14-43-405, the position of City Clerk and the position of City Treasurer shall be combined and the position of Clerk-Treasurer shall be established.

Section 2: That effective January 1, 2017, the term "clerk" or "treasurer" used in any existing contracts or franchise agreements shall be read and interpreted to mean "clerk-treasurer".

Section 3: That effective January 1, 2017, Chapter 2, Article III, Division 3 of the Code of Ordinances, City of Rogers, Arkansas, shall be amended and shall read in its entirety as shown in the attached Exhibit "A" (attached hereto and incorporated by reference as if set out word for word herein).

Section 4: Severability Provision. In the event that any section, paragraph, subdivision, clause, phrase, or other provision or portion of this Ordinance shall be adjudged invalid or unconstitutional, the same shall not affect the validity of this Ordinance as a whole, or any part or provision, other than the part so decided to be invalid or unconstitutional, and the remaining provisions of this Ordinance shall be construed as if such invalid, unenforceable or unconstitutional provision or provisions had never been contained herein.

Section 5: Repeal of Conflicting Ordinances and Resolutions. All ordinances, resolutions or orders of the City Council, or parts of ordinances, resolutions or orders of the City Council in conflict herewith are hereby repealed to the extent of such conflict.

PASSED this 10th day of May, 2016

APPROVED:


C. GREG HINES,
Mayor

Attest:

Peggy David
PEGGY DAVID, City Clerk



Prepared by: Chris Griffin, Senior Staff Attorney

EXHIBIT "A"**DIVISION 3. - CITY CLERK-TREASURER****Footnotes:**

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State Law reference— City Clerk - Treasurer generally, A.C.A. §§ 14-43-313, 14-43-316, 14-43-405, 14-43-406, 14-43-506, 14-43-507.

Sec. 2-166. - Combination of Offices, Intent, and Qualifications.

Pursuant to A.C.A. §14-43-405 the position of city clerk and city treasurer are hereby combined into the position of city clerk-treasurer. Any reference in this code to the "treasurer" or the "city clerk" shall hereafter be read as a reference to the city clerk-treasurer. The city clerk-treasurer shall be a qualified elector of the city at the time of assuming office. The duration of an elected term of service for the role of clerk-treasurer shall be for four years with the initial term of service for the "combined" position of clerk-treasurer beginning on January 1st, 2017.

(Code 1982, § 2-116; Code 1997, § 2-151)

Sec. 2-167. - Oath.

The city clerk-treasurer shall be required to take an oath of office before entering upon the discharge of their duties, which oath shall be subscribed by the person taking it and shall be filed in the form and manner required by the law of public officials in the State of Arkansas.

(Code 1982, § 2-117; Code 1997, § 2-152)

State Law reference— Officers' oath of office, Ark. Const. art. 19, § 20, A.C.A. § 14-42-106.

Sec. 2-168. - Duties.

It shall be the duty of the city clerk-treasurer to preserve and arrange the records of the city in an efficient, accurate, and accessible manner. The city clerk-treasurer shall have the following additional duties:

- (1) Maintaining ordinances. The clerk-treasurer shall keep a record of all bylaws, resolutions, and ordinances after their passage in accordance with state law.

State Law reference— Recording and authentication of ordinances, A.C.A. § 14-55-205.

- (2) Publication of ordinances. The clerk-treasurer, or their designee, shall cause to be published in a newspaper of general circulation within the city all bylaws or ordinances of a general or permanent nature, and all ordinances imposing any fine, penalty, or forfeiture. When ordinances adopted by reference, rules and regulations for zoning, construction of buildings, installation of plumbing or electrical wiring, criminal codes, fire codes, life safety codes, or other such technical work when the rules and regulations have been printed as a code in book form, the code or provisions thereof may be published by the municipality by reference to title of the code without further publication or posting thereof. The clerk-treasurer shall maintain, in their office, three copies of such code available for public use and inspection.

State Law reference— Similar provisions, A.C.A. § 14-55-206.

- (3) Seal. The clerk-treasurer shall keep the seal of the city, which seal shall be affixed to all transcripts, orders, certificates which it may be necessary or proper to authenticate, and to any bylaw or ordinance of the City. The clerk-treasurer shall charge a fee for authentication and attestation of documents other than those ordered by the council. A schedule of fees for such services shall be approved and adopted by resolution of the city council.

State Law reference— Similar provisions, A.C.A. § 14-43-406;

- (4) Minutes of council. The clerk-treasurer shall keep a regular and correct journal of the proceedings of the city council, including the results of all votes cast by the members. The clerk-treasurer shall cause this record to be presented to the city council for their approval. The approved record shall be maintained for public review and inspection in the office of the city clerk-treasurer.

State Law reference— Similar provisions, A.C.A. § 14-43-506.

- (5) Minutes of planning commission. The clerk-treasurer, or their designee, shall record faithfully and accurately the proceedings of the planning commission, including the results of all votes cast by the members. The clerk-treasurer, or their designee, shall then present this record for the approval of the planning commission. The approved record shall be maintained for public review and inspection in the office of the city clerk-treasurer.
- (6) Certified transcripts. The clerk-treasurer shall furnish certified transcripts of any ordinance, act, or proceeding recorded by the clerk-treasurer, or their designee, under the direction of the city. The clerk-treasurer shall charge a fee for such service.
- (7) Transcript of proceeding to close alley. Upon the filing of bond or an affidavit for appeal in a proceeding to close an alley, the city clerk-treasurer shall prepare a certified transcript of the record in the case, together with copies of all relevant papers, affix the seal of the city to such transcript, and file it with the circuit clerk of the county, where the appeal will stand trial.

State Law reference— Similar provisions, A.C.A. § 14-301-405.

- (8) Certificate of fire equipment. On or before December 31st of each year, the clerk-treasurer, or their designee, shall file with the director of the state department of finance and administration a statement showing the existence of the fire department, and such other information as required in the statement with the assistance of the fire chief.
- (9) Firemen's relief and pension board and policeman's pension and relief board. The clerk-treasurer shall act as ex officio secretary of the firemen's relief and pension board and shall act as the treasurer of the policeman's pension and relief board. The clerk-treasurer shall make any annual reports as required by law.

State Law reference— Similar provisions, A.C.A. § 24-11-801 and A.C.A. § 24-11-405.

- (10) List of building permits. The clerk-treasurer shall see that a list of all the building permits issued that year is filed with the county assessor. The list shall be alphabetically arranged, showing the value of the improvements to be made, and the names and addresses of the persons making the improvements.

State Law reference— Similar provisions, A.C.A. § 26-26-707.

- (11) Municipal depository board. The clerk-treasurer shall serve as a member of the municipal depository board.

State Law reference— Similar provisions, A.C.A. § 19-8-106.

- (12) Execution of contracts. The clerk-treasurer shall execute all contracts, conveyances, and lease contracts after a written resolution or ordinance, if applicable, authorizing such action is approved by the council.
- (13) Ethics and financial statements. The clerk-treasurer shall accept, and keep on file for public inspection, all ethics and financial statements required of candidates for city office and officeholders. Such statements shall be retained as a public record for five years, after which time such statements shall be destroyed.
- (14) Initiative and referendum petitions. The clerk-treasurer shall determine the sufficiency of signatures on all initiative and referendum petitions filed with their office.

State Law reference— Initiative and referendum, Ark. Const. Art. 5, § 1.

- (15) Surety bonds. The clerk-treasurer shall be charged with the custody of the official bond required for city officials or employees, except as provided by section 2-278(b).
- (16) Licenses and fees. The clerk-treasurer or their designee, if applicable, shall issue, collect and receipt for, in the name of the City, all licenses, fees, privilege and occupational taxes and other taxes as required by the statutes of the state and/or the provisions of this Code.
- (17) Accounts of receipts and expenditures. The clerk-treasurer shall keep and maintain a full and accurate account of all the monies received and disbursed by them, specifying the time of receipt and disbursement, from whom received and to whom disbursed, on what account received and disbursed, and how paid.
- (18) The city clerk-treasurer shall submit a quarterly report and a detailed statement of the financial condition of the City. This report shall show receipts, disbursements, and balance on hand, together with all liabilities of the city and shall be submitted to the city council in open session.

State Law reference— Clerk duties generally, A.C.A. § 14-43-313, § 14-43-506.

- (19) The clerk-treasurer shall serve as a member of the municipal depository board.
- (20) The clerk-treasurer shall receive and deposit such funds as required to be submitted to them by state law and shall ensure that said funds are deposited in the manner required by state law.

State Law reference – See generally A.C.A. § 16-10-209, § 16-10-308, § 16-13-704, §16-84-202, etc...

(Code 1982, § 2-120; Code 1997, § 2-155)

Sec. 2-169. - Vacancy in office.

- (a) If the office of clerk-treasurer shall become vacant before the expiration of the regular term, then the vacancy shall be filled by the city council until a successor is duly elected and qualified.
- (b) The successor shall be elected for the unexpired term at the first annual election that occurs after the vacancy has happened.

(Code 1982, § 2-121; Code 1997, § 2-156)

State Law reference— Filling vacancies, A.C.A. § 14-43-412.

Sec. 2-170. - Term.

The clerk-treasurer shall serve a term of four years as provided by state statute. However, the clerk-treasurer whose term shall expire shall continue in office until such time as his successor is elected and qualified, and shall have such duties and powers as are prescribed by ordinances of the City not in conflict with state law.

(Code 1982, § 2-122; Code 1997, § 2-157)

State Law reference— Term of city clerk, treasurer, or clerk-treasurer, A.C.A. § 14-43-316.

Secs. 2-171—2-199. - Reserved.